

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DEUTSCHE BANK NATIONAL TRUST
COMPANY, solely in its capacity as Trustee
for the MORGAN STANLEY
STRUCTURED TRUST I 2007-1,

Plaintiff,

- against -

MORGAN STANLEY MORTGAGE
CAPITAL HOLDINGS LLC, as Successor-
by-Merger to MORGAN STANLEY
MORTGAGE CAPITAL INC.,

Defendant.

No. 14 Civ. 3020 (LTS)

**STIPULATION AND ORDER FOR
THE FILING UNDER SEAL OF
CONFIDENTIAL DOCUMENTS**

x

Whereas on September 19, 2014, the Stipulation and Order Regarding Confidential Information and Inadvertent Disclosure of Privileged Materials (the “Protective Order”) permitted the parties to designate certain materials as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” (“confidential documents”); and

Whereas Defendant Morgan Stanley Mortgage Capital Holdings LLC (“Morgan Stanley”) intends to use confidential documents in support of its motion for summary judgment to dismiss the claims of Deutsche Bank National Trust Company, solely in its capacity as Trustee for Morgan Stanley Structured Trust I 2007-1 (“the Trustee”); and

Whereas, to the extent the parties proceed with summary judgment briefing, which the Trustee believes is unnecessary as explained in its May 3 submission, and which Morgan Stanley believes is necessary as explained in its May 4 submission, the Trustee intends to use

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DATE FILED: <u>5-5-2017</u>

confidential documents in support of its opposition to Morgan Stanley's motion for summary judgment; and

Whereas the Protective Order provides that, following notification by a party who seeks to file confidential documents with the Court, the party who produced the confidential documents may file with the Court a motion to seal them; and

Whereas the presumption of public access to judicial documents only applies to documents relied upon by the Court in rendering its decision, see Equal Opportunity Employment Comm'n v. Kelley Drye & Warren LLP, No. 10 Civ. 655, 2012 WL 691545, at *2 (S.D.N.Y. Mar. 2, 2012) (Swain, J);

It is hereby ORDERED that:

1. All confidential documents and all portions of briefs or other documents filed with the Court that reproduce, paraphrase, or disclose any portion of the confidential documents associated with Morgan Stanley's motion for summary judgment, the Trustee's opposition to Morgan Stanley's motion for summary judgment, and Morgan Stanley's reply in further support of its motion for summary judgment will be filed with the Court under seal. Redacted versions of those documents and briefs will be filed by CM/ECF.

2. The parties agree to meet and confer within 7 days of the Court's decision on Morgan Stanley's motion for summary judgment, to the extent the Court proceeds to rule on any motion for summary judgment rather than proceed directly to trial, to determine if the documents relied on by the Court may be unsealed.

3. If either party believes that documents relied on by the court should remain sealed, that party will file a motion to seal within 14 days of the Court's decision on Morgan Stanley's motion for summary judgment to the extent the Court rules on the motion.

Dated: New York, NY
May 4, 2017

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Dated: New York, NY
May 4, 2017

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Docket Entry No. 106 is resolved.

SO ORDERED:

[Signature]
5/5/17
U.S.D.J.

tmm